

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

MARY F. CUMMINGS,

Plaintiff,

vs.

UNITED STATES POSTAL SERVICE,

Defendant.

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Case No. 18-CV-231-RAW

DECLARATION OF JEFFREY WESTLAKE

I, Jeffrey Westlake, make the following declaration in lieu of an affidavit, as permitted by Section 1746 of Title 28 of the United States Code. I am aware that this declaration will be filed with the United States District Court for the Eastern District of Oklahoma and that it is the legal equivalent of a statement under oath.

1. I am over twenty-one (21) years of age and I am competent to give the declaration.
2. I am employed with the United States Postal Service as a District Complement Coordinator, Oklahoma District. I have held that position since January 21, 2017.
3. In my capacity as District Complement Coordinator, Oklahoma District, I have knowledge of deployment and implementation of complement management programs, policies and procedures for a performance cluster. Prior to this position, I was a Staffing Specialist since November 2014. I provided guidance and direction to local management related to staffing, hiring, selection and complement plans.
4. In filling the vacancies discussed below, the selecting officials received an Interactive Pre-Hire List with the candidates' names and their respective scores, which had been previously established by a third party vendor. The selecting officials did not calculate the scores nor were they permitted to alter or change the scores, but had to make their selection based on the pre-established scores and any personal interviews they conducted of the candidates.

5. On or about January 2017, the Postal Service had an open position for a PSE Sales and Services/Distribution Associate, ("SSDA") in the **Whitesboro** Post Office, Whitesboro, Oklahoma. (Att. 1, Interactive Pre-Hire List)
6. Five candidates were on the Interactive Pre-Hire List including Cummings. (Att. 1)
7. In accordance with U.S. Postal Handbook, EL-312, pursuant to the Postal Service's Rule of 3, Cummings could not be selected because three other candidates had higher scores than she did. (Att. 1, Att. 2, U.S. Postal Handbook, EL-312, Sections 623, 624, 625)
8. The candidate with the highest score of 87.0 and who had veteran preference was selected for the position. (Att. 1)
9. Plaintiff's age was not a factor in her non-selection.
10. On or about August 2017, the Postal Service had an open position for a PSE Sales and Services/Distribution Associate in the **Howe** Post Office, Howe, OK. (Att. 3, Interactive Pre-Hire List)
11. Five candidates qualified to be on the Interactive Pre-Hire List including Cummings. (Att. 3)
12. According to the Postal Service's Rule of 3, Plaintiff could not be selected because three other candidates had higher scores than she did. (Att. 2,3)
13. The candidate with the second highest score of 86.60, and was "strongly recommended" by the selecting official was hired for the position. (Att. 3)
14. Plaintiff's age was not a basis for her non-selection.

I declare under penalty of perjury that the foregoing is true and correct based on my personal knowledge.

Signed this 11th day of June 2020.


Jeffrey Westlake

USPS**Interactive Pre-Hire List****Job Title: 2395-0017 PSE SALES & SVCS/DISTRIBUTION ASSOCIATE - WHITESBORO OK****Requisition # 10080441****Number of vacancies to fill: 001****Date: 01/05/2017 - 21:43:43****Submitted by KZ5VVJ on 01/16/2017 - 11:14:31**

Candidate	Final Score	Application	Candidate Status	Vet Pref Adj.	Interview Results	Facility Location	Current/Prior USPS/FED	Comment
	87.00	14072761	To Be Hired	Yes	Select	Whitesboro 74577	N/A	
	86.00	14083827	Rejected	N/A	Recommended	Whitesboro 74577	N/A	
	85.60	14030041	Rejected	N/A	Recommended	whitesboro 74577	N/A	
	84.50	14030409	Rejected	N/A	Declined	Whitesboro 74577	Current USPS	
Mrs. Mary F Cummings	82.30	14073887	Rejected	N/A	Not Eligible/Not Suitable	Whitesboro 74577	Prior USPS	Postal history concerns

622.23

Employment and Placement

622.23 Applicants With Pending Criminal Charges

If an applicant has a pending violation that if it resulted in a conviction, would disqualify the applicant, no further action may be taken on the application until the charges are resolved (see 514.38, Additional Considerations).

622.24 Eligibility Period for Disqualified Applicants

Periods of disqualification will not extend the normal term of eligibility, which is limited to a maximum of 3 years.

622.25 Unsuitable Applicants Not Selected

Those who do not appear to be capable of meeting Postal Service requirements must not be selected.

623 Selection From Three Highest Ranked Eligibles

Selection is made from among the 3 highest rated eligibles available for the type of appointment being offered from the appropriate register. However, a preference eligible may not be passed over to select a nonpreference eligible who is lower on the Hiring Worksheet unless the action is documented (see 627, Objection to or Pass Over of Preference Eligible).

Note: At the appointing official's option, a selection may be made, even if only 1 or 2 eligibles are available, or return the *Hiring Worksheet* to the district and request additional names.

624 Applying the Rule of Three in Selection

Appointing officials are required to select the applicants whose qualifications make them the best fit to the positions for which they are being considered. In order to do this, they must use the *rule of three* when making selections (see 623 and 625). Eligibles who are not suitable are disqualified as described in 52, Determining Eligibility and Suitability.

625 Selection Sequence

For the first vacancy, the appointing official selects from among the 3 highest on the *Hiring Worksheet* who are available for the position to be filled. If more than one vacancy is available, eligibles not selected in filling the first vacancy and the next available eligible listed on the *Hiring Worksheet* are then considered. An eligible who has been considered 3 times for the same job category, and not selected, is not considered again for that job category and installation. However, the eligible's name remains on the active register until considered 3 times for other job categories and installations for which the register is used (see 628.2, Retention on Register).

626 Selection Decision

In making selection decisions, the appointing official follows the procedures specified in 62, Selection Procedures, paying particular attention to the provisions stated in 624, Applying the Rule of Three in Selection, and 625, Selection Sequence.

Selection decisions must be made allowing sufficient time for medical assessments and to meet scheduled reporting dates. Once a decision is

USPS**Interactive Pre-Hire List****Job Title: 2395-0017 PSE SALES & SVCS/DISTRIBUTION ASSOCIATE - HOWE OK****Requisition # 10133505****Number of vacancies to fill: 001****Date: 08/17/2017 - 15:45:52****Submitted by KD2N1W on 08/29/2017 - 14:50:56**

Candidate	Final Score	Application	Candidate Status	Vet Pref Adj.	Interview Results	Facility Location	Current/Prior USPS/FED	Comment
	91.30	16353625	Rejected	Yes	Select			
	86.60	16345000	To Be Hired	N/A	Strongly Recommended		N/A	
	86.00	16382891	Rejected	N/A	Recommended		N/A	
	83.90	16374070	Rejected	N/A	Score not reached for consideration			
Mrs. Mary F Cummings	82.30	16367130	Rejected	N/A	Score not reached for consideration			